

SENATE BILL 317

C4

11r1129
CF HB 647

By: Senators Pinsky and ~~Brinkley~~, Brinkley, Astle, Garagiola, Glassman, Kelley, Kittleman, Klausmeier, Mathias, Middleton, Muse, and Pugh

Introduced and read first time: February 2, 2011

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 9, 2011

CHAPTER _____

1 AN ACT concerning

2 ~~Property and Casualty~~ **Homeowner's Insurance – Victims of Crimes of**
3 **Violence – Discrimination Prohibited**

4 FOR the purpose of prohibiting insurers ~~from using~~, based solely on information about
5 an individual's status as a victim of a crime of violence ~~to take~~, from taking
6 certain actions relating to a policy of ~~property and casualty~~ homeowner's
7 insurance; providing that an insurer may not deny payment to ~~an~~ a certain
8 innocent coinsured under certain circumstances; limiting payment to an
9 innocent coinsured under certain circumstances; authorizing an insurer to
10 exclude certain property from coverage; providing that an insurer making a
11 certain payment shall have the right of subrogation against a certain
12 perpetrator; providing that this Act does not require a payment in excess of
13 certain limits, prohibit an insurer from applying certain standards, or prohibit
14 an insurer or insurance producer from asking certain individuals about a
15 certain claim or from using certain information for certain purposes;
16 authorizing the Maryland Insurance Commissioner to take certain actions on a
17 finding of certain violations; defining certain terms; providing for the
18 application of this Act; and generally relating to victims of crimes of violence
19 and discrimination in ~~property and casualty~~ homeowner's insurance.

20 BY repealing and reenacting, without amendments,

21 Article – Insurance

22 Section 27–501(a) and (b)

23 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2006 Replacement Volume and 2010 Supplement)

2 BY adding to

3 Article – Insurance

4 Section 27–504.1

5 Annotated Code of Maryland

6 (2006 Replacement Volume and 2010 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article – Insurance

9 Section 27–505(a)(1)

10 Annotated Code of Maryland

11 (2006 Replacement Volume and 2010 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – Insurance**

15 27–501.

16 (a) (1) An insurer or insurance producer may not cancel or refuse to
17 underwrite or renew a particular insurance risk or class of risk for a reason based
18 wholly or partly on race, color, creed, sex, or blindness of an applicant or policyholder
19 or for any arbitrary, capricious, or unfairly discriminatory reason.

20 (2) Except as provided in this section, an insurer or insurance
21 producer may not cancel or refuse to underwrite or renew a particular insurance risk
22 or class of risk except by the application of standards that are reasonably related to
23 the insurer’s economic and business purposes.

24 (b) (1) An insurer may not require special conditions, facts, or situations
25 as a condition to its acceptance or renewal of a particular insurance risk or class of
26 risks in an arbitrary, capricious, unfair, or discriminatory manner based wholly or
27 partly on race, creed, color, sex, religion, national origin, place of residency, blindness,
28 or other physical handicap or disability.

29 (2) Actuarial justification may be considered with respect to sex.

30 **27–504.1.**

31 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
32 MEANINGS INDICATED.

33 (2) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN §
34 14–101 OF THE CRIMINAL LAW ARTICLE.

1 (3) "VICTIM" MEANS A ~~PERSON~~ POLICYHOLDER OR CLAIMANT
 2 WHO SUFFERS PERSONAL INJURY, DEATH, OR PROPERTY LOSS AS A RESULT OF
 3 A CRIME OF VIOLENCE.

4 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, IF AN
 5 INDIVIDUAL IS A VICTIM OF A CRIME OF VIOLENCE, AN INSURER MAY NOT ~~USE,~~
 6 BASED SOLELY ON INFORMATION ABOUT THE INDIVIDUAL'S STATUS AS A VICTIM
 7 OF A CRIME OF VIOLENCE ~~TO~~:

8 (1) CANCEL, REFUSE TO UNDERWRITE OR RENEW, OR REFUSE TO
 9 ISSUE A POLICY OF ~~PROPERTY AND CASUALTY~~ HOMEOWNER'S INSURANCE;

10 (2) REFUSE TO PAY A CLAIM UNDER A POLICY OF ~~PROPERTY AND~~
 11 ~~CASUALTY~~ HOMEOWNER'S INSURANCE; OR

12 (3) ~~INCREASE RATES FOR PROPERTY AND CASUALTY INSURANCE;~~
 13 ~~OR~~

14 (4) FOR A POLICY OF ~~PROPERTY AND CASUALTY~~ HOMEOWNER'S
 15 INSURANCE, INCREASE A PREMIUM, ADD A SURCHARGE, APPLY A RATING
 16 FACTOR, OR USE ANY OTHER UNDERWRITING PRACTICE THAT ADVERSELY
 17 TAKES THE INFORMATION INTO ACCOUNT RETIER A POLICY, REMOVE A
 18 DISCOUNT, OR TAKE ANY OTHER ADVERSE UNDERWRITING OR RATING ACTION.

19 (C) (1) IF A POLICY OF ~~PROPERTY AND CASUALTY~~ HOMEOWNER'S
 20 INSURANCE EXCLUDES PROPERTY COVERAGE FOR INTENTIONAL ACTS, THE
 21 INSURER MAY NOT DENY PAYMENT FOR A LOSS TO A VICTIM WHO:

22 (I) IS AN INNOCENT COINSURED WHO;

23 (II) DID NOT COOPERATE IN OR CONTRIBUTE TO THE
 24 CREATION OF COMMIT, CAUSE TO BE COMMITTED, OR DIRECT THE CRIME OF
 25 VIOLENCE LEADING TO THE LOSS IF; AND

26 (I) ~~THE LOSS AROSE OUT OF A CRIME OF VIOLENCE; AND~~

27 (II) ~~THE PERPETRATOR OF THE LOSS IS CRIMINALLY~~
 28 ~~PROSECUTED FOR THE ACT CAUSING THE LOSS.~~

29 (III) COOPERATES IN ANY CRIMINAL INVESTIGATION,
 30 INCLUDING THE FILING OF AN OFFICIAL POLICE REPORT, AND IF UNDERTAKEN,
 31 ANY PROSECUTION OF THE PERPETRATOR.

32 (2) PAYMENT TO THE INNOCENT COINSURED MAY BE LIMITED TO
 33 ~~THE INNOCENT COINSURED'S OWNERSHIP INTEREST IN THE PROPERTY AS~~

1 ~~REDUCED BY ANY PAYMENT TO A MORTGAGOR OR OTHER SECURED PARTY. THE~~
 2 ~~AMOUNT OF THE LOSS UP TO THE HOMEOWNER'S INSURANCE POLICY LIMITS,~~
 3 ~~LESS ANY APPLICABLE DEDUCTIBLE AND COINSURANCE AND ANY PAYMENT TO~~
 4 ~~ANY SECURED PARTY.~~

5 (3) AN INSURER MAY EXCLUDE PROPERTY OWNED SOLELY BY
 6 THE PERPETRATOR FROM COVERAGE UNDER THE POLICY OF HOMEOWNER'S
 7 INSURANCE.

8 (4) AN INSURER MAKING PAYMENT TO THE INNOCENT
 9 COINSURED UNDER THIS SECTION SHALL HAVE THE RIGHT OF SUBROGATION
 10 AGAINST THE PERPETRATOR WHO COMMITTED, CAUSED TO BE COMMITTED, OR
 11 DIRECTED THE CRIME OF VIOLENCE LEADING TO THE LOSS.

12 **(D) THIS SECTION DOES NOT:**

13 (1) REQUIRE PAYMENT IN EXCESS OF A HOMEOWNER'S
 14 INSURANCE POLICY LIMITS;

15 (2) PROHIBIT AN INSURER FROM APPLYING REASONABLE
 16 STANDARDS OF PROOF OF A CLAIM; OR

17 (3) PROHIBIT AN INSURER OR INSURANCE PRODUCER FROM:

18 (I) ASKING AN APPLICANT, A POLICYHOLDER, OR A
 19 CLAIMANT ABOUT A CLAIM UNDER THIS SECTION; OR

20 (II) USING INFORMATION OBTAINED BY INVESTIGATION TO
 21 EVALUATE A CLAIM AND EXERCISE THE INSURER'S RIGHTS AND PERFORM ITS
 22 DUTIES.

23 27-505.

24 (a) (1) If the Commissioner finds that an insurer has violated § 27-501, §
 25 27-503, [or] § 27-504, **OR § 27-504.1** of this subtitle, the Commissioner, in addition
 26 to any other power granted by this article, may order the insurer to accept the risk, or
 27 accept the business, as appropriate.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
 29 policies ~~and contracts of property and casualty~~ of homeowner's insurance issued,
 30 delivered, or renewed in the State on or after October 1, 2011.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 32 October 1, 2011.